

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION**

**LINDSEY LEMKE, JANE L.B. DOE,  
JANE A.P. DOE, JANE S.M. DOE,  
JANE B.M. DOE, JANE L.A. DOE,  
JANE H.H. DOE, JANE W.N. DOE,  
JANE H.B. DOE, JANE L.K. DOE,  
JANE J.S. DOE, JANE R.E. DOE by next  
friend JANE R.L. DOE, JANE B.A.  
DOE, JANE H.T. DOE, JANE M.W.  
DOE, JANE Y.A. DOE, and JANE S.J.  
DOE,**

Member Case No.: 1:17-cv-00257  
Lead Case No.: 1:17-cv-000029

**Hon. Gordon J. Quist**

**Plaintiffs' Response to Order for  
Response**

**Plaintiffs,**

**V**

**MICHIGAN STATE UNIVERSITY;  
THE BOARD OF TRUSTEES OF  
MICHIGAN STATE UNIVERSITY;  
LAWRENCE GERARD NASSAR  
(individual and official capacity); USA  
GYMNASTICS, INC.; and TWISTARS  
USA, INC. d/b/a GEDDERTS'  
TWISTARS GYMNASTICS CLUB USA,**

**Defendants.**

---

**James White (P56946)  
John W. Fraser (P79908)  
Alexander S. Rusek (P77581)**  
White Law PLLC  
Attorneys for Plaintiffs  
2549 Jolly Road, Suite 340  
Okemos, Michigan 48864  
Ph.: (517) 316-1195  
Fax: (517) 316-1197  
W: [www.whitelawpllc.com](http://www.whitelawpllc.com)  
E: [jameswhite@whitelawpllc.com](mailto:jameswhite@whitelawpllc.com)  
E: [johnfraser@whitelawpllc.com](mailto:johnfraser@whitelawpllc.com)  
E: [alexrusek@whitelawpllc.com](mailto:alexrusek@whitelawpllc.com)

**Scott R. Eldridge (P66452)  
Megan P. Norris (P39318)  
Brian M. Schwartz (P69018)**  
Miller, Canfield, Paddock and Stone, PLC  
Attorneys for Defendants Michigan State  
University and the Board of Trustees of  
Michigan State University  
1 E. Michigan Ave. Ste. 900  
Lansing, MI 48933-1370  
Ph.: (517) 483-4918  
Fax: (517) 374-6304  
E: [eldridge@millercanfield.com](mailto:eldridge@millercanfield.com)  
E: [norris@millercanfield.com](mailto:norris@millercanfield.com)  
E: [schwartz@millercanfield.com](mailto:schwartz@millercanfield.com)

**D. Andrew Portinga (P55804)**  
**David J. Gass (P34582)**  
**Rebecca L. Strauss (P64796)**  
Miller Johnson PLC  
Attorneys for Defendant USA  
Gymnastics, Inc.  
45 Ottawa SW, Ste. 1100  
P.O. Box 306  
Grand Rapids, MI 49501-0306  
Ph.: (616) 831-1700  
Fax: (616) 988-1772  
E: portingaa@millerjohnson.com  
E: gassd@millerjohnson.com  
E: straussr@millerjohnson.com

**Patrick Fitzgerald (admission pending)**  
**Amy Van Gelder (admission pending)**  
**Albert L. Hogan (admission pending)**  
Skadden, Arps, Slate, Meagher & Flom LLP  
Attorneys for Defendants Michigan State  
University and the Board of Trustees of  
Michigan State University  
155 N. Wacker Drive  
Chicago, IL 60606  
Ph.: (312) 407-0700  
Fax: (312) 407-0411  
E: Patrick.Fitzgerald@skadden.com  
E: Amy.VanGelder@skadden.com  
E: Al.Hogan@skadden.com

**Cameron R. Getto (P57300)**  
Zausmer August & Caldwell, P.C.  
Attorneys for Defendant Twistars  
USA, Inc. d/b/a Gederts' Twistars  
Gymnastics Club USA  
31700 Middlebelt Rd., Ste. 150  
Farmington Hills, MI 48334  
Ph.: (248) 851-4111  
Fax: (248) 851-0100  
E: cgetto@zacfirm.com

---

### **PLAINTIFFS' RESPONSE TO ORDER FOR RESPONSE**

---

**NOW COME** Plaintiffs, by and through their attorneys WHITE LAW PLLC, and hereby state in Response to the Court's June 20, 2017 Order for Response (ECF No. 57) regarding Plaintiffs' First Amended Complaint (ECF No. 49) as follows:

1. On June 20, 2017, the Court issued an Order for Response (ECF No. 57) requiring Plaintiffs to "file a response showing that amendment as of right is proper under Rule 15(a)(1)(A)."
2. On March 20, 2017, Plaintiffs filed their initial Complaint (ECF No. 1) and Motion to Consolidate (ECF No. 2) in this matter following the Court's March 10, 2017 Order Regarding Intervenor Plaintiffs in *Denhollander v. Mich. State Univ.*, No. 1:17-cv-00029 PageID.3350-3351

(W.D. Mich.).

3. Consolidation of this member case with a number of other member cases was granted by the Court on April 14, 2017 (ECF No. 12), and this case was consolidated with lead case No. 1:17-cv-00029.
4. On June 15, 2017, Plaintiffs filed their First Amended Complaint (ECF No. 49) as a matter of course pursuant to FED. R. CIV. P. 15(a)(1)(A).
5. Plaintiffs did not serve their March 20, 2017 Complaint (ECF No. 1) on any of the Defendants in this member case prior to filing their First Amended Complaint (ECF No. 49).
6. Since Plaintiffs' First Amended Complaint was filed prior to service of their initial Complaint on any Defendants in this matter, their First Amended Complaint was filed within 21 days after serving it pursuant to FED. R. CIV. P. 15(a)(1)(A). *See also Pertuso v. Ford Motor Credit Co.*, 233 F.3d 417, 420 (6th Cir. 2000) (“Fed.R.Civ.P. 15(a) gives plaintiffs an absolute right to amend their complaint one time before a ‘responsive pleading’ is served.”).
7. Prior to the June 15, 2017 filing of Plaintiffs' First Amended Complaint (ECF No. 49), all other filings concerning service, waiver of service, or default noted on the docket sheet for this member case were filed by counsel involved in other member cases of this consolidated action.
8. Following the Court's April 14, 2017 Order Granting Motion to Consolidate (ECF No. 12), ECF Nos. 13 through 44 in this matter all concern filings from other member cases of this consolidated action until ECF No. 45, which is the Sealed Affidavit of Jane R.L. Doe filed pursuant to the Court's April 10, 2017 Order Granting Motion to Appoint Next Friend (ECF No. 11). These filings by ECF number were filed in the member cases as follows:  
ECF No. 13 – Filed in 1:17-cv-222  
ECF No. 14 – Filed in 1:17-cv-288

ECF No. 15 – Filed in 1:17-cv-244

ECF No. 16 – Order Regarding Files 1:17-cv-222, 1:17-cv-288, and 1:17-cv-244

ECF No. 17 – Filed in 1:17-cv-288

ECF No. 18 – Filed in 1:17-cv-288

ECF No. 19 – Filed in 1:17-cv-288

ECF No. 20 – Filed in 1:17-cv-288

ECF No. 21 – Filed in 1:17-cv-349

ECF No. 22 – Filed in 1:17-cv-349

ECF No. 23 – Filed in 1:17-cv-254

ECF No. 24 – Filed in 1:17-cv-349

ECF No. 25 – Order Regarding File 1:17-cv-254

ECF No. 26 – Order Regarding File 1:17-cv-349

ECF No. 27 – Filed in 1:17-cv-349

ECF No. 28 – Filed in 1:17-cv-349

ECF No. 29 – Filed in 1:17-cv-349

ECF No. 30 – Filed in 1:17-cv-288

ECF No. 31 – Filed in 1:17-cv-349

ECF No. 32 – Filed in 1:17-cv-254

ECF No. 33 – Filed in 1:17-cv-254

ECF No. 34 – Filed in 1:17-cv-254

ECF No. 35 – Filed in 1:17-cv-254

ECF No. 36 – Filed in 1:17-cv-254

ECF No. 37 – Filed in 1:17-cv-254

ECF No. 38 – Filed in 1:17-cv-254

ECF No. 39 – Filed in 1:17-cv-254

ECF No. 40 – Filed in 1:17-cv-254

ECF No. 41 – Filed in 1:17-cv-29

ECF No. 41 – Filed in 1:17-cv-29

ECF No. 42 – Filed in 1:17-cv-29

ECF No. 43 – Filed in 1:17-cv-29

ECF No. 44 – Filed in 1:17-cv-29

9. As can be seen, the overwhelming majority of the filings noted on the docket report for the instant member case concern other member cases in this consolidated action.
10. The only other docket entry after ECF No. 45 that was filed prior to Plaintiffs' First Amended Complaint (ECF No. 49) that concerns service of process is ECF No. 46, which pertains to member case 1:17-cv-29.
11. Due to the fact that Plaintiffs in this member case did not serve their initial March 20, 2017 Complaint (ECF No. 1) on any defendants prior to filing their First Amended Complaint (ECF No. 49), Plaintiffs' First Amended Complaint was timely and properly filed as a matter of course pursuant to FED. R. CIV. P. 15(a)(1)(A) because it was filed before service of the March 20, 2017 Complaint (ECF No. 1) on any defendants in this member case and therefore within 21 days after serving it.
12. Alternatively, no responsive pleadings to Plaintiffs' March 20, 2017 Complaint (ECF No. 1) were filed by any defendants in this action prior to the June 15, 2017 filing of Plaintiffs' First Amended Complaint (ECF No. 49), and FED. R. CIV. P. 15(a)(1)(B) allows a party to amend its complaint as a matter of course "within 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier."
13. As Plaintiffs' First Amended Complaint was filed prior to the filing or service of any

responsive pleading by any Defendant in this member case, Plaintiffs' amendment of their Complaint as a matter of course was also timely and proper under FED. R. CIV. P. 15(a)(1)(B).

14. If the Court has any further reservations regarding the filing of Plaintiffs' First Amended Complaint, Plaintiffs have already sought and received concurrence to file a motion for leave to amend their complaint from counsel for all defendants in this member case except Defendant Lawrence Gerard Nassar<sup>1</sup> in accordance with LR 7.1(d) and are prepared to promptly file such a motion if necessary.

**WHEREFORE**, Plaintiffs respectfully request that this Honorable Court accept Plaintiffs' First Amended Complaint (ECF No. 49) as properly filed pursuant to FED. R. CIV. P. 15(a)(1)(A) or (B).

**Respectfully Submitted,**

Dated: June 21, 2017

/s/ James White

**James White (P56946)**  
White Law PLLC  
Attorney for Plaintiffs  
2549 Jolly Road, Suite 340  
Okemos, Michigan 48864  
Ph.: (517) 316-1195  
Fax: (517) 316-1197  
W: [www.whitelawpllc.com](http://www.whitelawpllc.com)  
E: [jameswhite@whitelawpllc.com](mailto:jameswhite@whitelawpllc.com)

Dated: June 21, 2017

/s/ John W. Fraser

**John W. Fraser (P79908)**  
White Law PLLC  
Attorney for Plaintiffs  
2549 Jolly Road, Suite 340  
Okemos, Michigan 48864  
Ph.: (517) 316-1195  
Fax: (517) 316-1197  
W: [www.whitelawpllc.com](http://www.whitelawpllc.com)  
E: [johnfraser@whitelawpllc.com](mailto:johnfraser@whitelawpllc.com)

---

<sup>1</sup> Upon information and belief, it is Defendant Nassar's intention to proceed *in proper* in this matter, as he has been defaulted in a number of the member cases and has not taken any steps to date to defend himself in this consolidated action. *See* ECF Nos. 30, 31, 39.

Dated: June 21, 2017

/s/ Alexander S. Rusek

**Alexander S. Rusek (P77581)**

White Law PLLC

Attorney for Plaintiffs

2549 Jolly Road, Suite 340

Okemos, Michigan 48864

Ph.: (517) 316-1195

Fax: (517) 316-1197

W: [www.whitelawpllc.com](http://www.whitelawpllc.com)

E: [alexrusek@whitelawpllc.com](mailto:alexrusek@whitelawpllc.com)